

1                   IN THE UNITED STATES DISTRICT COURT  
2                   FOR THE DISTRICT OF PUERTO RICO  
3   UNITED STATES OF AMERICA,       \*   CR. 97-87  
      Plaintiff,                   \*  
4       vs.                           \*   San Juan, Puerto Rico  
ROBERTO ALI HERNANDEZ WILSON \*   26 September, 2003  
5       Defendant.                 \*   1:30 p.m.

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7                   ORDER TO SHOW CAUSE  
8                   BEFORE THE HONORABLE JOSE A. FUSTE  
                  UNITED STATES DISTRICT COURT JUDGE

9   APPEARANCES  
10   COUNSEL FOR THE GOVERNMENT  
11   DAVID RIVERA, AUSA  
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13   COUNSEL FOR THE DEFENDANT  
14   ANTONIO BAUZA TORRES, ESQ.

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24                   YVETTE RICHARDSON, CSR OCR  
25                   (787) 772-3476

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1 THE COURT: Next case.

2 THE CLERK: Yes, Your Honor. For order to  
3 show cause, criminal 97-87, United States of America  
4 versus Roberto Ali Hernandez Wilson.

5 Appearing on behalf of the government, the  
6 Assistant U.S. Attorney, David Rivera.

7 And on behalf of the defendant, Antonio Bauza  
8 Torres. The defendant is present in Court and he will  
9 be provided with the services of the official Court's  
10 interpreter.

11 MR. BAUZA: Good afternoon, Your Honor.  
12 Antonio Bauza on behalf of the defendant, who is also  
13 present.

14 MR. RIVERA: Good afternoon, Your Honor.  
15 David Rivera on behalf of the United States. We are  
16 ready to proceed.

17 THE COURT: Let me ask, counsel, what is your  
18 client's position on the issue of the matter that is  
19 before the Court at this time?

20 MR. BAUZA: Your Honor, our position is that  
21 we are completely aware that the revocation hearing is  
22 well founded. So we will just deal with it.

23 We've reviewed the options with the probation  
24 officer. It is from 17 to 24 months. So we are  
25 requesting the lower end of the guidelines of the

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1 disposition of this matter.

2 THE COURT: Very well.

3 MR. BAUZA: We also request, Your Honor, he  
4 is also pending to serve a state court sentence. But  
5 we are requesting that he first serves this court's  
6 sentence and then he is scheduled to serve the state  
7 court sentence.

8 THE COURT: And what do you have to say about  
9 all this, Mr. Hernandez? Are you accepting then the  
10 fact that you are not in compliance with the  
11 supervised release and that the Court must then  
12 address this issue by way of revocation?

13 THE DEFENDANT: Yes.

14 THE COURT: Very well.

15 Government, anything?

16 MR. RIVERA: Your Honor, simply we concur  
17 with the probation officer's recommendation. The  
18 defendant is a Grade A violations, criminal history  
19 category 3 with a range of 17 to 24. We would  
20 recommend a sentence in that range.

21 We would also request the imposition of a  
22 condition of previous release that be followed.

23 MR. BAUZA: As to that matter, it is in the  
24 discretion of this Court.

25 THE COURT: I understand. I understand that.

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1 Anything else?

2 MR. BAUZA: No, Your Honor.

3 THE COURT: Very well. Anything else that  
4 you wish to say before I impose the sentence or the  
5 disposition. Before I enter the disposition, if you  
6 want to say something? You don't have to.

7 THE DEFENDANT: Nothing.

8 THE COURT: Very well.

9 The Court finds that Mr. Hernandez violated  
10 the terms of the supervised release that was  
11 previously imposed on him. The violation consisted in  
12 new criminal activity which appears delineated in the  
13 notice of violation that the probation department  
14 filed, dated March the 6th of this year. So,  
15 therefore, the supervised release term that was  
16 previously imposed last -- January 22, 1998, is hereby  
17 revoked. We are talking about a situation under  
18 Guideline line Section 7B(1.1). We have to make  
19 reference to the most serious of the violations that  
20 appear now before the Court. That would be a grade A  
21 violation, as the government pointed out, because it  
22 is based on conduct that is punishable by a term of  
23 imprisonment exceeding one year.

24 We must also consider the original criminal  
25 history category which is three. And under these

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1 circumstances and, of course, considering a grade  
2 violation, the GSR or guideline imprisonment range is  
3 18 to 24 months.

4 The Court will sentence Mr. Hernandez to the  
5 24 months, which is the higher end of the guidelines  
6 to be served consecutively to the sentence imposed in  
7 the state system.

8 He will have to serve three years of  
9 supervised release under this new disposition under  
10 the same terms and conditions of supervision entered  
11 previously.

12 I am advising the defendant that he has the  
13 right to appeal this disposition by filing a notice of  
14 appeal within 10 days from today. He can appeal in  
15 forma pauperis. He can also have the benefits of the  
16 Criminal Justice Act if he wishes to appeal without  
17 having to retain an attorney.

18 Anything else?

19 MR. BAUZA: Would the Court be willing to  
20 consider the three years of additional supervised  
21 release?

22 THE COURT: I think --

23 MR. BAUZA: Half of his previous supervised  
24 release sentence?

25 THE COURT: Supervised release, under the

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1 circumstances, should be imposed and I am imposing  
2 three years.

3 Anything else?

4 MR. BAUZA: And about the request being made  
5 that he first serve the federal sentence.

6 THE COURT: He is going to serve the federal  
7 sentence first, yes.

8 MR. BAUZA: Okay.

9 THE COURT: Thank you very much. You are now  
10 excused.

11 (Whereupon, at 2:10 p.m. court was adjourned)

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REPORTER'S CERTIFICATE

I, YVETTE RICHARDSON, Official Court

Reporter in the United States District Court for the

District of Puerto Rico, appointed pursuant to the

provisions of Title 28, United States Code, Section

753, do hereby certify that the foregoing is a true

and correct transcript of the proceedings had in the

within entitled and numbered cause on the date

hereinbefore set forth; and I do further certify that

the foregoing transcript has been prepared under my

direction.

Whereupon, I have set my hand this 3rd day

of August 2004.

YVETTE RICHARDSON, CSR, OCR  
Official Court Reporter